

V. CONFIDENTIALITY OF PERSONALLY IDENTIFIABLE INFORMATION

It is the policy of the State of Iowa that personally identifiable information maintained by the State Education Agency (SEA), area education agencies (AEAs) and local education agencies (LEAs) for students with disabilities is protected and confidential and complies with FERPA requirements.

Before any major identification, location, or evaluation activity, the LEA and AEA publish the notice or announcement in newspapers or other media, or both with circulation adequate to notify parents throughout the AEA of the activity. The Iowa Department of Education publishes an annual notice to parents in the principal newspaper of Iowa.

The State of Iowa, area education agencies, and local school districts give notice that is adequate to fully inform parents about the requirements of confidentiality including:

1. A description of the extent that the notice is given in the native languages of the various population groups in the State;
2. A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the State intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;
3. A summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and
4. A description of all of the rights of parents and children regarding this information,

The following procedures have been established to protect the confidentiality of child identification data that is collected by this state from AEAs and LEAs. The Iowa Department of Education and Area Education Agencies' Information Management System (IMS) is a cooperative effort designed to meet the data management needs of the DE and AEAs. The IMS maintains data that is accurate, current and reflective of the quality and quantity of special education services provided. In addition to meeting data reporting requirements, the IMS also is designed to provide information needed to enhance service delivery and program improvement. The Chief of the Bureau of Children, Family and Community Services is responsible for the confidential maintenance and management of all data relating to children with disabilities that are collected by the Iowa Department of Education.

1. The Chief has the authority to designate a person or persons to serve as custodian of all data collected and to designate those persons who will legitimately have access to such data. Permission for the release of any information held in this data bank must be obtained from the Bureau Chief. Any data released by the designated person will not contain individually identifiable information, and would usually consist only of summary reports presenting usable totals.
2. All child identification data received by the SEA from AEAs and LEAs is in coded form. The local educational level official or designated person codes the data. This official is the AEA Director of Special Education who by law is assigned

responsibility for assuring the appropriate educational placement of children with disabilities. The format of the coding system and its utilization are known only by the responsible officers at the LEA who prepare and submit the coded data to the SEA.

3. To ensure the confidentiality of the identity of each student, an alphanumeric code has been developed that obscures any personally identifiable data or information. It allows individual students to be distinguished only by ID code number at the state level. Names of individual children can only be obtained from the local educational agency and not from data submitted to the SEA. This alphanumeric system allows the collection of adequate data on an individual basis without jeopardizing the confidentiality of a student's record. It does, however, permit the SEA to collect sufficient data on a statewide basis to ensure efficient program administration and monitoring.
4. Other data pertaining to a student that are collected include the resident LEA, the LEA sponsoring the instructional program in which the student is enrolled, and the type of disability.
5. The disposition and destruction of data source documents is under the direct supervision of the assigned data custodian. All such documents are destroyed through a shredding process.

Right to Inspect Records.

Each participating agency shall permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part. The agency shall comply with a request without unnecessary delay and before any meeting regarding an IEP, or any hearing relating to the identification, evaluation, placement or provision of FAPE and, in no case, more than 45 days after the request has been made.

The right to inspect and review education records includes –

1. The right to a response from the participating agency to reasonable requests for explanations and interpretations of the records;
2. The right to request that the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records;
3. The right to have a representative of the parent inspect and review the records.

An agency may presume that the parent has authority to inspect and review records relating to his or her child unless the agency has been advised that the parent does not have the authority under applicable State law governing such matters as guardianship, separation, and divorce.

Record of Inspection.

Each participating agency shall keep a record of parties obtaining access to education records collected, maintained, or used under Part B of IDEA (except access by parents and authorized employees of the participating agency). The record shall include the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

If any education record includes information on more than one child, the parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.

Record location.

Each participating agency shall provide parents on request a list of the types and locations of education records collected, maintained, or used by the agency.

Each participating agency may charge a fee for copies of records that are made for parents under this part if the fee does not effectively prevent the parents from exercising their right to inspect and review those records. A participating agency may not charge a fee to search for or to retrieve information under this part.

Amending records.

A parent who believes that information in the education records collected, maintained, or used under this part is inaccurate or misleading or violates the privacy or other rights of the child may request the participating agency that maintains the information to amend the information. The agency shall decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request. If the agency decides to refuse to amend the information in accordance with the request, it shall inform the parent of the refusal and advise the parent of the right to a hearing.

The agency shall, on request, provide an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child. If, as a result of the hearing, the agency decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it shall amend the information accordingly and so inform the parent in writing. If, as a result of the hearing, the agency decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it shall inform the parent of the right to place in the records it maintains on the child a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency. Any explanation placed in the records of the child under this section must: (1) Be maintained by the agency as part of the records of the child as long as the record or contested portion is maintained by the agency; and (2) If the records of the child or the contested portion is disclosed by the agency to any party, the explanation must also be disclosed to the party.

Disclosure.

Except for disclosures authorized under Part 99 of FERPA regulations, parental consent must be obtained before personally identifiable information is

1. Disclosed to anyone other than officials of participating agencies collecting or using the information; or,
2. Used for any purpose other than meeting a requirement of federal regulations.

An educational agency or institution may not release information from education records to participating agencies without parental consent unless authorized to do so.

State of Iowa policies and procedures may be used if a parent refuses consent or does not respond to a request for consent. If a parent refuses to give permission, the participating agency shall attempt to seek resolution through an individual conference(s). If the parent still refuse to give consent, the participating agency shall either accept the decision or appeal to the SEA. This appeal will include a mediation effort involving Bureau of Children, Family and Community Services personnel and, if required, a formal hearing.

Responsibility for protecting confidentiality.

Each participating agency shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages. To assure protection:

1. One official at each participating agency shall assume responsibility for ensuring the confidentiality of any personally identifiable information.
2. All persons collecting or using personally identifiable information must receive training or instruction regarding the State's policies and procedures.
3. Each participating agency shall maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

Data destruction.

The public agency shall inform parents when personally identifiable information collected, maintained, or used under this part is no longer needed to provide educational services to the child. The information must be destroyed at the request of the parents. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

Transfer of rights at age of majority.

The State of Iowa shall provide policies and procedures regarding the extent to which children are afforded rights of privacy similar to those afforded to parents, taking into consideration the age of the child and type or severity of disability. The rights of parents regarding education records are transferred to the student at age 18. If the rights accorded to parents under Part B of the Act are transferred to a student who reaches the age of majority, the rights regarding educational records must also be transferred to the student. However, the public agency must provide notice regarding the transfer to the student and the parents.

Monitoring procedures for confidentiality.

The Iowa Department of Education through the process of monitoring certification assures that each participating district/agency receiving and/or eligible for funds from federal sources has all such policies and procedures, as described herein, in effect. In the event a district/agency fails to comply with the provisions of this part, the Department of Education may initiate actions to withhold the payment of federal funds available to the district/agency under IDEA and/or the payment of state funds available to support the special education services.

The State of Iowa does not require a public agency to include in the records of a child with a disability a statement of any current or previous disciplinary actions that have been taken against the child.

Legal References

Federal Requirements

| | |
|--------------------------|---|
| 20 USC 1232..... | Family Educational Rights and Privacy Act (FERPA) |
| 20 USC 1412 (a) (8)..... | Confidentiality of records and information |
| 20 USC 1417(c) | Confidentiality |
| 34 CFR Part 99 | FERPA |
| 34 CFR 300.127 | Confidentiality of identifiable information |
| 34 CFR 300.517 | Transfer of Rights at Age of Majority |
| 34 CFR 300.560..... | Definitions |
| 34 CFR 300.561 | Notice to parents |
| 34 CFR 300.562..... | Access rights |
| 34 CFR 300.563..... | Records of access |
| 34 CFR 300.564..... | Records on more than one child |
| 34 CFR 300.565..... | Lists of types and locations of information |
| 34 CFR 300.566..... | Fees |
| 34 CFR 300.567 | Amendment of records at parent's request |
| 34 CFR 300.568..... | Opportunity for a hearing |
| 34 CFR 300.569..... | Result of hearing |
| 34 CFR 300.570..... | Hearing procedures |
| 34 CFR 300.571 | Consent |
| 34 CFR 300.572..... | Safeguards |
| 34 CFR 300.573..... | Destruction of information |
| 34 CFR 300.574..... | Children's rights |
| 34 CFR 300.575..... | Enforcement |
| 34 CFR 300.576..... | Disciplinary information |
| 34 CFR 300.577 | US Department use of identifiable information |

Iowa Requirements

| |
|--|
| Iowa Code 22.7, "Examination of Public Records," |
| Iowa Code, Chapter 256B, - Special Education |
| Iowa Administrative Code 281-5, "Public Records and Fair Information Practices," |
| Iowa Administrative Code 12.3(4) "Student Records," |
| Division V Confidentiality of Information-41.29 to 41.35 |
| Iowa Administrative Rules of Special Education |
| 281-41.67 - Content of IEP |
| 281-41.111 - Transfer of Parents Rights at Age of Majority |
| 281-41.135 - Sanctions |
| 281-41.144 - Sanctions |